IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 21912 of 2003

Between:

Sri Sai Granites rep. by its working Partner Yalavarthi Rajendra Prasad, S/o. Purushotham, R/o. Chenchupet, Tenalli, Guntur Dist.

..... PETITIONER

AND

1 Secretary Department of Mines & Minerals,
Govt. of A.P. A.P. Secretariat, Hyderabad.
2 The Director Of Mines & Geology Govt. of A.P.
B.R.K.R. Buildings, Hyderabad.
3 The District Collector, Ongole,
Prakasam District.
4 The Assistant Director of Mines & Geology,
Padma Towers, II Floors, South Bye-Pass Road,
Ongole, Prakasam District.
5 The Mandal Revenue Officer, Chimakurthy Mandal,
Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the Proceedings of the 2nd respondent in Pro.No. 21562/H3(2)/2002 dated 23-10-02 as illegal and arbitrary and consequently direct the respondent to grant quarrying lease to the petitioner over 18 Acres in S.No. 55/5 , Rajupalem Lakshmipuram village, Chimkurthy Mandal, Prakasam District.

Counsel for the Petitioner: MR.A.RAMANARAYANA

Counsel for the Respondent No.1, 2 and 4 : G.P FOR INDUSTRIES

Counsel for the Respondent No. 3 and 5: GP FOR MINES AND GEOLOGY

The Court made the following :

ORDER:

Heard both sides. The petitioner herein seeks to assail the impugned proceedings dated 23.10.2002, rejecting his application for grant of mining lease.

The case of the petitioner, in brief, is that he has been doing business of mines and minerals and he applied for the grant of quarry lease for black granite over an extent of Acs.18 in Sy.No.55/5, Rajupalem Lakshmipuram village, Chimakurthy Mandal, Prakasam District. After processing the said application at various levels and after obtaining the report etc., the second respondent rejected the same on 23.10.2004, mainly on the ground that the area sought for was entered in Prohibitory Order Book (for short "P.O.B.") by the District Collector, Ongole vide Lr. No.Rc.J1/60953/87 dated 08.08.1988 and hence, the same cannot be granted. Further, the case of the petitioner is that the very same proceedings in respect of the said P.O.B. were challenged before this Court and ultimately, all the writ petitions have been allowed, against which they filed a writ appeal and is still pending before this Court. However, no stay has been granted. In view of the same, there cannot be any such objection on the part of the respondent herein for rejection. Hence, the present writ petition.

Learned Government Pleader for Mines and Geology appearing on behalf of the respondents herein, filed a counter-affidavit reiterating the same allegations and also various other aspects. They are all not necessary in this writ petition. However, admittedly, the said P.O.B. was challenged before this Court in W.P.No.26477 of 1997 and batch, which were allowed on 28.03.2002, against which writ appeal has been filed and is still pending.

Considering the submissions made on either side and also on perusal of the material, it is seen that the ground on which, lease was rejected is no longer subsists and this Court has already held that the said P.O.B. is not valid. Though writ appeal was filed and is pending, no stay was granted and therefore, there cannot be any impediment to rely on the said judgment in the above writ petitions.

In view of the same, the writ petition is allowed. Impugned orders are set aside and the matter is remitted to second respondent for fresh consideration, who shall dispose of the same after giving notice and opportunity to both sides, within four

weeks from the date of receipt of a copy of this order. _____

02-09-2004

Jsu

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Thursday, the Second day of September, Two thousand and Four.

ASSISTANT REGISTRAR

To

1 Secretary Department of Mines & Minerals,
Govt. of A.P. A.P. Secretariat, Hyderabad.
2 The Director Of Mines & Geology Govt. of A.P.
B.R.K.R. Buildings, Hyderabad.
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6 2CCs to the Government Pleader for Mines and Geology, High Court Buildings, Hyderabad.(OUT).

7 2CD copies.